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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/904,151	07/12/2001	John C. Evans	GME / 137	2466

7590

10/29/2002

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EXAMINER

BECKER, DREW E

ART UNIT

PAPER NUMBER

1761

DATE MAILED: 10/29/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/904,151

Applicant(s)

EVANS ET AL.

Examiner

Drew E Becker

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2. 6) ☐ Other:

DETAILED ACTION

Specification

1. The abstract of the disclosure is objected to because it recites "metts" rather than "meats". Correction is required. See MPEP § 608.01(b).
2. Page1 , line 4 of the specification is objected to because it recites "metts" rather than "meats".

Claim Objections

3. Claim 1 is objected to because of the following informalities: line 10 recites "foot items" which should be changed to "food items". Appropriate correction is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-4, 6, 10-12, 20-22, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schlaegel [Pat. No. 3,125,015] in view of Eason [Pat. No. 3,854,392]. Schlaegel teaches a cooking device comprising a housing (Figure 1, 56), a plurality of vertically spaced spits (Figure 1, 18), first and second independently controllable drive mechanisms (Figure 6, 76), the spits overlying each other (Figure 6, 18), and applying heat to the food in order to cook it (Figure 1, 62). Schlaegel does not teach tiers of

horizontal, rotatable rollers. Eason teaches a cooking device comprising a tier of horizontal, rotatable rollers attached to a spit (Figure 1, 13 & 16). It would have been obvious to one of ordinary skill in the art to incorporate the roller tiers of Eason into the invention of Schlaegel since both are directed to grilling devices, since Schlaegel already included rotatable spits (Figure 1, 18), and since Eason teaches that the roller tier was intended to convert typical spit-type rotisseries into devices for cooking wieners and sausages (abstract).

6. Claims 13-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lopata [Pat. No. 5,471,915] in view of Eason.

Lopata teaches a cooking device comprising a housing with a pair of sidewalls (Figure 1, 12 & 14) and a plurality of vertically spaced, overlying spits (Figure 1, 30). Lopata does not teach tiers of horizontal, rotatable rollers. Eason teaches a cooking device comprising a tier of horizontal, rotatable rollers attached to a spit (Figure 1, 13 & 16). It would have been obvious to one of ordinary skill in the art to incorporate the roller tiers of Eason into the invention of Lopata since both are directed to grilling devices, since Lopata already included rotatable spits (Figure 1, 30), and since Eason teaches that the roller tier was intended to convert typical spit-type rotisseries into devices for cooking wieners and sausages (abstract).

7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schlaegel, in view of Eason, as applied to claim 3 above, and further in view of Hunot et al [Pat. No. 6,393,971].

Schlaegel and Eason teach the above mentioned components. Schlaegel and Eason do not teach an inclined roller tier. Hunot et al teach a cooking device comprising an inclined roller tier (Figure 10, 26). It would have been obvious to one of ordinary skill in the art to incorporate the inclined roller tier of Hunot et al into the invention of Schlaegel, in view of Eason, since all are directed to grilling devices, since Eason already included roller tiers (Figure 1, 13), and since the inclined roller tier of Hunot et al facilitated easier loading and unloading of hotdogs as well as a good view of the cooking process (column 4, line 64).

8. Claims 7-9 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schlaegel, in view of Eason, as applied above, and further in view of Wilson et al [Pat. No. 3,901,136].

Schlaegel and Eason teach the above mentioned components. Schlaegel and Eason do not teach first and second independent heater controls. Wilson et al teach a cooking device comprising two heaters (Figure 6, 41-42) and independent controls for the heaters (Figure 5, 52-53). It would have been obvious to one of ordinary skill in the art to incorporate the heater controls of Wilson et al into the invention of Schlaegel, in view of Eason, since all are directed to grilling devices, since Schlaegel already included a heat source (Figure 1, 62), and since the two independent heating controls of Wilson et al would have provided an added degree of flexibility to the cooking process by creating zones of differing heat levels, for instance a broiling zone and a warming zone.


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9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Nissen et al [Pat. No. 3,084,616] and Huang [Pat. No. 5,611,263] teaches multiple tiers.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew E Becker whose telephone number is 703-305-0300. The examiner can normally be reached on Monday-Thursday 7am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 703-308-3959. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1495.


Drew Becker
October 23, 2002